

WRITTEN TESTIMONY ON HOUSE BILL 263 – SENATE TRANSPORTATION, COMMERCE AND WORKFORCE COMMITTEE

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Chairman McColley, Vice Chairman Johnson, Ranking Member Antonio, and members of the Senate Transportation, Commerce and Workforce Committee, I would like to provide written testimony on House Bill 263, which proposes changes to the restrictions on occupational licensing for initial applicants with criminal records. While this bill applies to all state licensing boards, I would like to address its effects on the State Board of Education and the licenses the State Board issues for educators working in schools, including teachers, administrators, counselors and coaches.

House Bill 263 would substantially limit the State Board of Education's authority to deny an initial educator license to an individual with a prior criminal offense. Under the bill, the State Board's statutory list of disqualifying criminal offenses for initial license applicants must be limited to "offenses that are directly related to the duties and responsibilities of the licensed occupation." Additionally, the State Board cannot deny a license for those offenses (other than sex offenses and offenses of violence) that occurred more than five years prior to the date of application. The implications of these restrictions on educator licensure are very concerning.

The General Assembly has long recognized the importance of protecting the safety of children in Ohio's schools. Unlike other licensing bodies, which generally adopt rules describing disqualifying offenses for licensure, the "absolute bars" to educator licensure are listed in statute (O.R.C. 3319.31). This is because the General Assembly has seen fit to set clear limits on who can be responsible for the care, custody and control of a child in the school setting. These absolute bars to licensure include the most violent and serious of crimes, but they also include other offenses that the General Assembly has determined could affect the welfare of children entrusted to the educator's care. For example, crimes such as drug trafficking, child endangerment, kidnapping, disseminating matter harmful to juveniles, and permitting child abuse prohibit an individual who has committed such crimes to be licensed as an educator under Ohio law.

These crimes often occur outside of the school setting and, therefore, do not directly affect an individual's ability to perform the activities authorized by an educator license. However, prohibiting the State Board from considering convictions for these offenses, in whole or even in part, could put children at risk. For instance, an applicant who was charged with importuning a minor and who pled the charge down to disorderly conduct could not have evidence of the original charge or the resulting conviction used as a basis to deny licensure under the bill. The practical application is that bringing up the history at a Chapter 119. hearing would be banned because the decision would be based "in part" on the conviction.

Yet, since 2008, the General Assembly has considered importuning an *absolute bar* to licensure as an educator. Moreover, in September 2020, the Senate unanimously passed Senate Bill 34, which included language stating that the State Board of Education, when issuing a license, does not need to consider whether there is a connection between a person's immoral act or conduct and the person's ability to

perform the duties associated with the license. It also designates a select subset of the most serious absolute bar offenses for which an individual cannot receive a Certificate of Qualification for Employment (CQE) to be an educator. Both of these Senate Bill 34 provisions are in direct conflict with the proposed language in House Bill 263. The Senate, and the General Assembly as a whole, have been steadfast in their support of the State Board's authority to investigate *any* conduct that could be a potential risk to the safety of children and to prevent individuals whose prior behavior could threaten that safety from being in the classroom. On behalf of the State Board, I believe that support must continue.

In its previous legislation, the General Assembly has struck a balance between the competing needs of ensuring the safety of children and safeguarding the rights of educators. Except in cases of a conviction for an absolute bar offense, applicants for a license have the right to due process and can appeal the State Board's decision to deny a license. The State Board also has adopted rehabilitation standards to consider when an applicant has prior convictions that are not absolute bars and has granted licenses based on a CQE issued by a court.

Finally, the bill does not change the absolute bars to licensure for educators who are already licensed. A teacher convicted of drug trafficking could not renew a license, but an individual who was convicted of drug trafficking seven years ago could get an initial teacher's license. The bill grants protections to initial applicants that licensed educators do not have, creating a double standard of misconduct. If we believe that the safety of Ohio's students is our number one priority, then we cannot sacrifice that safety based on whether a person is a first-time applicant or a veteran educator.

I respectfully request that this committee exempt the State Board of Education from the provisions of House Bill 263. An exemption would be consistent with the General Assembly's record of treating educators differently from other licensed professionals given the unique role educators play in the lives of children. Thank you for the opportunity to share my thoughts with you. If you have any questions, please feel free to reach out to me directly (Paolo.DeMaria@education.ohio.gov) or to my legislative staff (Marjorie.Yano@education.ohio.gov).